

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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 JABARI-JASON TYSON-PHIPPS, :
 Plaintiff, : ORDER
 : 23 Civ. 2316 (LAK) (GWG)
 :
 -against- :
 :
 SECRETARY MARCO RUBIO, :
U.S. Department of State, :
 :
 Defendant.¹ :
 -----X

GABRIEL W. GORENSTEIN, United States Magistrate Judge:

The defendant has filed a motion to dismiss the First Amended Complaint (Docket ## 47, 48) on the ground that it fails to comply with Fed. R. Civ. P. 8(a)(2). In the alternative, it seeks to strike allegations in the First Amended Complaint. Plaintiff has filed a memorandum of law in opposition (Docket # 50)

The Court agrees with the defendant that the complaint simply does not constitute a “short and plain statement” of plaintiff’s retaliation claim as required by Rule 8(a)(2) in that it contains numerous irrelevant and unnecessarily detailed and expansive allegations as explained in the Government’s memorandum. It also includes evidentiary support for some allegations, which is not required or proper in a complaint.

The Court is prepared to issue a Report and Recommendation recommending dismissal of the First Amended Complaint. Plaintiff, however, seeks leave to instead file a second amended complaint that would cure any deficiencies. See Docket # 50 at 12-15. Plaintiff’s request to file a second amended complaint with “streamlined” allegations is granted. Plaintiff’s request to “expand” the complaint in any form is denied.

There is no factual complexity to this case justifying the sprawling allegations in the First Amended Complaint. If plaintiff wishes to file a second amended complaint that eliminates extraneous matter and that cures the failings identified in the Government’s memorandum of law, plaintiff has leave to do so provided the second amended complaint is far shorter (presumptively no more than 6500 words), adds no new allegations, and seeks relief only for retaliation under Title VII.

To give plaintiff comfort, the Court gives notice that if defendant moves to dismiss the second amended complaint, and if any failings identified in that motion could be cured by

¹ Secretary of State Marco Rubio is substituted as defendant for Antony Blinken by operation of Fed. R. Civ. P. 25(d).

plaintiff reinserting allegations that were omitted from a prior complaint, the Court will permit plaintiff to reinsert those allegations.

Plaintiff has leave to file a second amended complaint consistent with this Order on or before August 15, 2025. If plaintiff fails to file such a complaint, the Court will issue a Report and Recommendation based on the current briefing and on the First Amended Complaint being the operative complaint.

SO ORDERED

Dated: July 25, 2025
New York, New York



GABRIEL W. GORENSTEIN
United States Magistrate Judge